

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**DAVID SANTIAGO RENTERIA,
TDCJ # 999460,**

Petitioner,

V.

LORIE DAVIS,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division,

Respondent.

EP-23-CR-2080-FM

ORDER REMANDING CASE TO THE STATE COURT

David Santiago Renteria provides notice, pursuant to 18 U.S.C. §§ 1443(1) and 1455, of the removal of his criminal case, *State v. Renteria*, Cause No. 20020D00230 in the 327th District Court of El Paso County, Texas, to the United States District Court for the Western District of Texas. He claims he has the right of removal under § 1442(1) because the Texas Court of Criminal Appeals held an *ex parte* proceeding, violated his constitutional rights, and ordered the El Paso County District Court to rescind its order vacating his execution order.


Section 1443 provides a “criminal prosecution[], commenced in a State court may be removed by the defendant to the district court . . . wherein it is pending . . . [a]gainst any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States . . .” 18 U.S.C. §§ 1443. “The defendant bears the burden of establishing its right to removal under § 1443.” *Charter School of Pine Grove, Inc. v. St. Helena Parish Sch. Bd.*, 417 F.3d 444, 448 (5th Cir. 2005). “Congress eliminated post-judgment removal when it enacted [section] 641 of the Revised Statutes of 1874.” *State of Ga. v. Rachel*, 384 U.S. 780, 795 (1966).

Renteria has been tried and convicted for capital murder, exhausted his direct appeals, and failed to obtain habeas relief. *See Renteria v. State*, 206 S.W.3d 689 (Tex. Crim. App. 2006); *Ex parte Renteria*, No. WR-65,627-01, 2014 WL 7191058 (Tex. Crim. App. Dec. 17, 2014); *Renteria v. Davis*, No. EP-15-CV-62-FM, 2019 WL 611439 (W.D. Tex. Feb. 12, 2019); *Renteria v. Davis*, 814 F. App'x 827 (5th Cir. 2020); *Renteria v. Lumpkin*, 141 S. Ct. 1412 (2021). Renteria now seeks post-judgment removal of his criminal case, which is not permitted. *Rachel*, 384 U.S. at 795.

Accordingly,

1. It is **HEREBY ORDERED** his criminal case is **REMANDED** to the 327th District Court of El Paso County, Texas.
2. It is **FURTHER ORDERED** that the Hearing set for November 6, 2023, is **CANCELLED**.
3. The Clerk of Court is **INSTRUCTED** to cancel the Writ of Habeas Corpus ad Prosequendum [ECF No. 3].
4. The Clerk of Court is **INSTRUCTED** to close this case.

SIGNED this 20th day of October 2023.



FRANK MONTALVO
SENIOR UNITED STATES DISTRICT JUDGE